**Procurement – Requirements Prohibitions Analysis Worksheet**

|  |  |
| --- | --- |
| **Grantee:** | Click or tap here to enter text. |
| **Completed by:** | Click or tap here to enter text. |
| **Item to Procure:** | Click or tap here to enter text. |
| **Date Completed:** | Click or tap to enter a date. |

|  |
| --- |
| **Requirements Prohibition Analysis – Part 1**  Reviewed prior to advertising |

|  |  |  |
| --- | --- | --- |
| **Solicitation Requirements Prohibitions Analysis – Competitive Procurements**  (4220.1F Chapter VI Section 2.a.(4))  The Common Grant Rules prohibits solicitation requirements that contain features that unduly restrict competition. | | |
|  | **True** | **False** |
| **Excessive or Unreasonable Requirements**  (4220.1F.VI.2.a.(4)(a)) (2 CFR 200.319(a)(1)) | | |
| Do the specifications appear to avoid placing unreasonable requirements on firms in order for them to qualify to do business? |  |  |
| **Unnecessary Experience**  (4220.1F.VI.2.a.(4)(b)) (2 CFR 200.319(a)(2)) | | |
| Do the specifications appear to avoid requiring unnecessary experience? |  |  |
| **Improper Prequalification**  If prequalification is used, it must allow qualification during the solicitation period. The solicitation period, however, is not required to be extended for a bidder who initiated the process late, to become qualified. The prequalification timing procedures policy should guide.  (4220.1F.VI.2.a.(4)(c)) | | |
| Prequalification is not used in this procurement or it is used and offeror qualification during the solicitation period is allowed? |  |  |
| **Retainer Contracts**  (4220.1F.VI.2.a.(4)(d)) (2 CFR 200.319(a)(4)(d)) | | |
| An award is not being made to any person or firm on a retainer contract for an award that is not for the item or services specified for delivery under the retainer contract? |  |  |
| **Excessive Bonding**  (4220.1F.VI.2.a.(4)(e)) | | |
| The specifications do not appear to impose excessive bonding requirements? |  |  |
| **Geographic Restrictions**  Specifying in-State or local geographical preferences, or evaluating bids or proposals considering in-State or local geographic preferences, even if those preferences are imposed by State or local laws or regulations. In particular, 49 U.S.C. Section 5325(i) prohibits an FTA recipient from limiting its bus purchases to in-State dealers.  (4220.1F.VI.2.a.(4)(g))  There is an exception for A&E services. Geographic preference is permitted for A&E services if after the application of the preference there are an appropriate number of firms to compete for the contract.  (49 CFR§18.36(c)(2)) | | |
| The specifications do not appear to specify an in-State or local geographic preference except for an A&E services procurement? |  |  |
| **Organizational Conflicts of Interest**  Organizational conflicts of interest occur when the contractor has a lack of impartiality or impaired objectivity, the contractor has an unfair competitive advantage through obtaining access to nonpublic information during the performance of an earlier contract, or the contractor has established the ground rules for the procurement by developing specifications, evaluation factors, or similar documents.  (4220.1F.VI.2.a.(4)(h)) (2 CFR 200.319(a)(5))  The recipient needs to analyze the acquisition in order to identify and evaluate potential organizational conflicts of interest as early in the acquisition process as possible, and avoid, neutralize, or mitigate potential conflicts before contract award. | | |
| Discuss potential organizational conflicts of interest, if applicable: | | |
| Click or tap here to enter text. | | |
| The acquisition does not appear to create an organizational conflict of interest? |  |  |
| **Restraint of Trade**  Supporting or acquiescing to noncompetitive pricing practices between firms or between affiliated companies is prohibited. Questionable practices would include, but not be limited to submissions of identical bid prices for the same products by the same group of firms, or an unnatural pattern of awards that had the cumulative effect of apportioning work among a fixed group of bidders or offerors. | | |
| Does the acquisition appear to prohibit the restraint of trade?  (4220.1F.VI.2.a.(4)(i)) (2 CFR 200.319(a)(3)) |  |  |
| **Arbitrary Action**  (4220.1F.VI.2.a.(4)(j)) (2 CFR 200.319(a)(7)) | | |
| The specifications do not appear to require unrelated requirements or arbitrary actions? |  |  |

|  |  |  |
| --- | --- | --- |
| **Solicitation Requirements Prohibitions Analysis – Competitive Procurements** | | |
|  | **True** | **False** |
| **Competitive Specifications**  The specification/requirements appear to represent a description of the specifications that do not unduly restrict competition?  (4220.1F Chapter III Section 3.a.) (4220.1F Chapter VI Section 2.a.) (2 CFR §200.319) |  |  |

|  |
| --- |
| **Requirements Prohibition Analysis – Part 2**  Reviewed prior to award |

|  |  |  |
| --- | --- | --- |
| **Solicitation Requirements Prohibitions Analysis – Competitive Procurements**  (4220.1F Chapter VI Section 2.a.(4))  The Common Grant Rules prohibits solicitation requirements that contain features that unduly restrict competition. | | |
|  | **True** | **False** |
| **Excessive or Unreasonable Requirements**  (4220.1F.VI.2.a.(4)(a)) (2 CFR 200.319(a)(1)) | | |
| Did the specifications appear to avoid placing unreasonable requirements on firms in order for them to qualify to do business? |  |  |
| **Unnecessary Experience**  (4220.1F.VI.2.a.(4)(b)) (2 CFR 200.319(a)(2)) | | |
| Did the specifications appear to avoid requiring unnecessary experience? |  |  |
| **Improper Prequalification**  If prequalification is used, it must allow qualification during the solicitation period. The solicitation period, however, is not required to be extended for a bidder who initiated the process late, to become qualified. The prequalification timing procedures policy should guide.  (4220.1F.VI.2.a.(4)(c)) | | |
| Prequalification is not used in this procurement or it is used and offeror qualification during the solicitation period is allowed? |  |  |
| **Retainer Contracts**  (4220.1F.VI.2.a.(4)(d)) (2 CFR 200.319(a)(4)(d)) | | |
| An award is not being made to any person or firm on a retainer contract for an award that is not for the item or services specified for delivery under the retainer contract? |  |  |
| **Excessive Bonding**  (4220.1F.VI.2.a.(4)(e)) | | |
| The specifications did not appear to impose excessive bonding requirements? |  |  |
| **Geographic Restrictions**  Specifying in-State or local geographical preferences, or evaluating bids or proposals considering in-State or local geographic preferences, even if those preferences are imposed by State or local laws or regulations. In particular, 49 U.S.C. Section 5325(i) prohibits an FTA recipient from limiting its bus purchases to in-State dealers.  (4220.1F.VI.2.a.(4)(g))  There is an exception for A&E services. Geographic preference is permitted for A&E services if after the application of the preference there are an appropriate number of firms to compete for the contract.  (49 CFR§18.36(c)(2)) | | |
| The specifications did not appear to specify an in-State or local geographic preference except for an A&E services procurement? |  |  |
| **Organizational Conflicts of Interest**  Organizational conflicts of interest occur when the contractor has a lack of impartiality or impaired objectivity, the contractor has an unfair competitive advantage through obtaining access to nonpublic information during the performance of an earlier contract, or the contractor has established the ground rules for the procurement by developing specifications, evaluation factors, or similar documents.  (4220.1F.VI.2.a.(4)(h)) (2 CFR 200.319(a)(5))  The recipient needs to analyze the acquisition in order to identify and evaluate potential organizational conflicts of interest as early in the acquisition process as possible, and avoid, neutralize, or mitigate potential conflicts before contract award. | | |
| The acquisition did not appear to create an organizational conflict of interest? |  |  |
| Discuss potential organizational conflicts of interest, if applicable: | | |
| Click or tap here to enter text. | | |
| **Restraint of Trade**  Supporting or acquiescing to noncompetitive pricing practices between firms or between affiliated companies is prohibited. Questionable practices would include, but not be limited to submissions of identical bid prices for the same products by the same group of firms, or an unnatural pattern of awards that had the cumulative effect of apportioning work among a fixed group of bidders or offerors. | | |
| Did the acquisition appear to prohibit the restraint of trade?  (4220.1F.VI.2.a.(4)(i)) (2 CFR 200.319(a)(3)) |  |  |
| **Arbitrary Action**  (4220.1F.VI.2.a.(4)(j)) (2 CFR 200.319(a)(7)) | | |
| The specifications did not appear to require unrelated requirements or arbitrary actions? |  |  |

|  |  |  |
| --- | --- | --- |
| **Solicitation Requirements Prohibitions Analysis – Competitive Procurements** | | |
|  | **True** | **False** |
| **Competitive Specifications**  The specification/requirements appeared to represent a description of the specifications that do not unduly restrict competition?  (4220.1F Chapter III Section 3.a.) (4220.1F Chapter VI Section 2.a.) (2 CFR §200.319) |  |  |